

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #3	CCRB Case #: 202003727	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 9:00 PM	Location of Incident: 298 Classon Avenue near the intersection of Dekalb Avenue and Classon Avenue	Precinct: 88	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 1:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 1:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Chad Phillips	26095	937287	C R C
2. POM Connor Lichte	04856	951919	C R C
3. SGT Efrain Perez	00329	937268	C R C
4. LT Chris Catechis	00000	918834	C R C
5. CPT Ryon Malcolm	00000	925654	088 PCT
6. CCA Jeffrey Maddrey	00000	899501	C A B
7. COD Terence Monahan	00000	876747	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used pepper spray against an individual.	
B. An officer	Force: An officer used physical force against an individual.	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F. An officer	Force: An officer struck § 87(2)(b) with a baton.	
G. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	
H. An officer	Force: An officer used pepper spray against § 87(2)(b)	
I. An officer	Force: An officer struck § 87(2)(b) with a baton.	

Case Summary

On May 30, 2020, § 87(2)(b) filed this complaint on behalf of himself and an unknown individual via the CCRB website.

On May 29, 2020, at approximately 9:00 p.m., § 87(2)(b) unknowingly entered a protest against police brutality at Dekalb Avenue and Classon Avenue in Brooklyn near the 88th Precinct Stationhouse at 298 Classon Avenue in Brooklyn. As § 87(2)(b) walked through the crowd in an attempt to reach the other side of Dekalb Avenue, an unknown individual, individual 1, approached him, knelt, and requested water to flush out his eyes because he had just been pepper sprayed by a police officer (**Allegation A: Force**, § 87(2)(g)). Unknown officer 1 approached and told individual 1 to get out of the way. Officer 1 then pushed the kneeling individual 1 to the ground (**Allegation B: Force**, § 87(2)(g)). Officer 1 then grabbed § 87(2)(b)'s forearm and told him to leave. Officer 2 and officer 3 gathered around § 87(2)(b) and pushed him (**Allegation C: Force**, § 87(2)(g)). Officer 1 pushed § 87(2)(b) to the ground with two hands, and § 87(2)(b) then grabbed the officer's leg to orient himself (**Allegation D: Force**, § 87(2)(g)). While on the ground, § 87(2)(b) felt multiple officers kicking and hitting him along his back and sides; simultaneously, he felt a baton hitting his head where he was wearing a bicycle helmet (**Allegations E and F: Force**, § 87(2)(g)). An unidentified person, who § 87(2)(b) did not see, pulled him up from the ground, while two other officers told § 87(2)(b) that he had to leave. Officer 1 stepped onto § 87(2)(b)'s bicycle that had been on the ground, thereby crushing one of the wheels and denting the metal (**Allegation G: Abuse of Authority**, § 87(2)(g)). As § 87(2)(b) walked away, he saw by his peripheral vision a hand holding pepper spray come from behind him and spray his right eye from a distance of about two to three inches (**Allegation H: Force**, § 87(2)(g)). § 87(2)(b) then attempted to turn around and see the officer who sprayed him. As he did so, officer 3 used his baton to forcefully push it into § 87(2)(b)'s left side without saying anything (**Allegation I: Force**, § 87(2)(g)). § 87(2)(b) walked home. § 87(2)(b) was not arrested or issued any summonses. § 87(2)(b) alleged he sustained bruising to his nose, difficulty chewing, trouble breathing and pain to his ribs as a result of this incident. Several days later, § 87(2)(b) sought treatment for his injuries at a place he believed was § 87(2)(b) in Brooklyn. However, § 87(2)(b) did not have any records for § 87(2)(b) for that date because they did not locate any.

A request for body-worn camera (BWC) video footage returned four results from Officer Chad Phillips, Officer Conor Lichte, Officer Efrain Perez, and Officer Chris Catechis, all of the Critical Response Command, but none of the videos showed the incident nor showed § 87(2)(b) (BR 01). A request for TARU footage returned negative results (BR 08).

Findings and Recommendations

Allegation (A) Force: An officer used pepper spray against § 87(2)(b)
Allegation (B) Force: An officer used physical force against § 87(2)(b)
Allegation (C) Force: Officers used physical force against § 87(2)(b)
Allegation (D) Force: An officer used physical force against § 87(2)(b)
Allegation (E) Force: Officers used physical force against § 87(2)(b)
Allegation (F) Force: An officer struck § 87(2)(b) with a baton.
Allegation (G) Abuse of Authority: Officers damaged § 87(2)(b)'s property.
Allegation (H) Force: An officer used pepper spray against § 87(2)(b)
Allegation (I) Force: An officer struck § 87(2)(b) with a baton.

In § 87(2)(b)'s statement to the CCRB, he testified that he was cycling home from a friend's house, when he unknowingly entered a protest at Dekalb Avenue and Classon Avenue in Brooklyn. As § 87(2)(b) walked through the crowd in an attempt to reach the south side of Dekalb Avenue, individual 1 approached him and requested water to flush out his eyes that had just been peppered. As § 87(2)(b) used his water bottle to flush the individual's eyes while the latter knelt, two unidentified officers approached them. One of the officers, officer 1, who held a baton in one hand, told the unidentified individual to get out of the way and used one hand to push the individual to the ground. Officer 1 then grabbed § 87(2)(b)'s forearm and told him to leave. § 87(2)(b) asked the officer to release him so that he could leave, but the officer did not respond. § 87(2)(b) described officer 1 as a Hispanic male, standing at approximately 6' tall with brown and black hair and thick eyebrows, with a round body, approximately in his mid-30s and in a blue uniform (BR 05).

Shortly thereafter, officer 2 and officer 3 gathered around § 87(2)(b) and the first officer and began to push § 87(2)(b). § 87(2)(b) described officer 2 as a black female, standing under 5'7" tall, with a black ponytail, "round" build, and in her late 30s. Officer 3 was an older white male, approximately 5'7" tall with gray hair. Both wore blue uniforms. Officer 1 released § 87(2)(b)'s arm, which resulted in § 87(2)(b) losing his balance and stumbling. § 87(2)(b) then spilled some of his water from the water bottle in his hand onto officer 1's face. While still holding the baton in one of his hands, officer 1 stepped back, brought his fists to the center of his chest so that his elbows were pointed outward, and then pushed § 87(2)(b) with both of his hands, causing § 87(2)(b) to fall to the ground. § 87(2)(b) grabbed the officer's leg to orient himself while on the ground. While doing so, § 87(2)(b) felt multiple officers kicking and hitting him along his back and sides; simultaneously he felt a baton hitting his head where he was wearing a bicycle helmet. After approximately one minute of officers hitting § 87(2)(b), an unidentified person pulled § 87(2)(b) up from the ground. As he stood, officer 2 and officer 3 told § 87(2)(b) that he had to leave. Officer 1 then stepped onto § 87(2)(b)'s bicycle that had been on the ground, thereby crushing one of the wheels and denting the metal. § 87(2)(b) then grabbed his bicycle and attempted to walk away but was limping and disoriented from having been beaten and hit on the head with a baton. As he was walking, he saw out by his peripheral vision a hand holding pepper spray come from behind him. § 87(2)(b) then saw the hand spray the pepper spray into his right eye from a distance of about two to three inches. § 87(2)(b) then attempted to turn around and see the officer who sprayed him. As he did so, officer 3 used his baton to forcefully shove the end of it into § 87(2)(b)'s left side without saying anything. § 87(2)(b) then managed to limp out of the crowd and away from the officers to the other side of the street. He then walked home using a different route (BR 05).

While he walked home, § 87(2)(b) recorded himself with his phone and explained what had just occurred to him (BR 06). When § 87(2)(b) arrived home, he took a photograph of his helmet, noting that it had been dented by the officers' blows (BR 07). For the next several days after the incident, § 87(2)(b) had bad bruising on his nose and difficulty chewing with the left side of his mouth. Additionally, he had lingering pain in his left wrist and trouble breathing, which were still present as of the date of his interview. § 87(2)(b) stated that he had visited § 87(2)(b) in Brooklyn a few days after the incident, due to his continued difficulty breathing and his rib pain. He thought he might have a broken rib. The doctors took x-rays and stated that it did not appear that anything was broken. They prescribed muscle relaxers and ibuprofen pills for § 87(2)(b) (BR 05). § 87(2)(b) did not have records for § 87(2)(b) (BR 17), § 87(2)(g)

The investigation was unable to determine the identity of the unknown individual from § 87(2)(b)'s statement to the CCRB. § 87(2)(b) described individual 1 as a male with brown hair, a "boxy" build, and wearing a black t-shirt with black jeans (BR 05). The investigation attempted to identify the individual using a BADS search for arrested individuals, a social media search for

related posts and videos, and CCRB case 202004179 from the same cluster due to its complainant partially witnessing an incident that matches § 87(2)(b)'s sequence of events, but none of the above yielded any results to assist in identification (**BR 02-04**). Therefore, the investigation has only the statement and evidence provided by § 87(2)(b).

A request for BWC footage returned four results from Officer Chad Phillips, Officer Conor Lichte, Officer Efrain Perez, and Officer Chris Catechis, all of the Critical Response Command (**BR 01**). None of the footage showed the alleged incident with § 87(2)(b) nor does it show § 87(2)(b) (**BR 01**). The videos appear to show officers forming a line in the intersection of Dekalb Avenue and Classon Avenue in Brooklyn, but with no incidents that even slightly resemble the incident alleged by § 87(2)(b) (**BR 01**). It is unclear where § 87(2)(b) would have stood in relation to the officers or if he was present at the same time as the officers since it was an ongoing incident. A request for TARU footage yielded negative results (**BR 08**). Searches of social media for video footage also yielded negative results (**BR 04**).

CCRB concurrent cases 202004255, 202003726, 202003737, 202003698 were included in the protest cluster that contained § 87(2)(b)'s alleged incident (**BR 11**). None of the aforementioned cases assisted with officer identification or explanation of the incident, aside from the above referenced officer interviews (**BR 11**). All of the cases, since they are investigations of the same cluster have the same police paperwork and do not provide new information that was not available in this case. Case 202003726 had stationhouse video footage, but it did not show § 87(2)(b) (**BR 11**).

The Detail Rosters do not provide any information to assist with officer identification either (**BR 12**). The following commands are listed in the Rosters: Precincts 20, 23, 24, 25, 26, 28, 30, 32, 33, 34, 44, 75, 77, 79, 81, 83, 84, 88, 90, 94, 108, 109, 110, 111, 112, 114, 115, Patrol Borough Brooklyn North, and Critical Response Command. The locations listed in the Rosters are only the following: the Brooklyn Bridge, Brooklyn City Hall, the Manhattan Bridge, Cadman Plaza and Tillary Street, and Jay Street/Metro Tech Station. The incident location is not listed in the rosters and the closest location, Jay Street/Metro Tech Station, is 30 minutes away from the incident location. Therefore, the investigation could not interview any possible specific commanding officers to determine instructed the specific since the Detail Rosters do not have the location listed as a post nor any location near it.

§ 87(2)(b), § 87(2)(g)

Chief Jeffrey Maddrey of the Community Affairs Bureau was interviewed by a panel of investigators for the protest case cluster (202003717, 202003695, 202005229, 202003848, 202100603, 202003715, 202006846, 202003770, 202003743, 202004729, 202003727, 202004179, and 202003698) that occurred at Barclay's Center in Brooklyn and the surrounding protests (**BR 10**). § 87(2)(e)

§ 87(2)(b). Chief Maddrey arrived at the 88th Precinct Stationhouse at the intersection of Classon Avenue and Dekalb Avenue before the protestors and spoke with Captain Ryon Malcolm of the 88th Precinct. He did not know all of the commands present at the stationhouse, noting that the situation was extremely chaotic. When he saw approximately 250 protestors approaching the stationhouse along Dekalb Avenue, he went over the radio to request more officers and resources. When they arrived, Chief Maddrey denied giving any specific instructions or directions to officers because of the chaos, noting that there was "no conversation, no talking," but did note that he instructed the officers to advance forward towards the group of protestors. He did not witness or testify to the alleged incident with § 87(2)(b). He noted that there was no documentation generated at the 88th Precinct stationhouse in regards to who the additional responding units were, due to the chaotic nature of the event. He also stated that Captain Malcolm oversaw handling all administrative matters regarding the incident.

Chief Terence Monahan, during his CCRB interview for the same case cluster, testified that he did not travel to the 88th Precinct stationhouse on the night of May 29 into May 30, 2020, and that Chief Maddrey and Chief Fausto Pichardo of the Patrol Services Bureau went to supervise the response instead of Chief Monahan (**BR 16**).

Chief Pichardo was not interviewed by the CCRB because he retired from the NYPD on December 13, 2020 (**BR 19**).

Captain Ryon Malcolm of the 88th Precinct was interviewed for this case by a panel of investigators representing this case cluster due to the fact that he was the commanding officer of the precinct of occurrence (**BR 09**). Capt. Malcolm testified that he entered into the stationhouse to assist with an arrest of § 87(2)(b) and denied giving any instructions to his officers regarding crowd control or levels of force. Capt. Malcolm then oversaw the processing and transport of people arrested during the protest to 1 Police Plaza. He noted that he entered the stationhouse before 9:00 p.m. and did not interact with the protestors. Capt. Malcolm did not testify about preparing any protest related paperwork. Capt. Malcolm did not describe an incident similar to the one alleged by § 87(2)(b).

The Detail Rosters are consistent with Chief Maddrey's statement that the protest itself was chaotic and changing. The 88th Precinct stationhouse was not a fixed post for the protest details and as such, the investigation is unable to determine a possible path to efficiently interview officers at the location. The generic descriptions of the officers provided by § 87(2)(b) did not allow the investigation to try and compare them against any of the possible commands found in the Detail Rosters.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On August 10, 2021, a request for a Notice of Claim was submitted to the New York City Office of the Comptroller and returned negative results (**BR 20**).
- § 87(2)(b)

Squad: 3

Investigator: Michael Miskovski Inv. Michael Miskovski 08/18/2021
Signature Print Title & Name Date

Squad Leader: Olga Golub IM Olga Golub 08/18/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date